

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON SENATE AMENDMENTS TO HOUSE BILL 211

Call to Order: By **CHAIRMAN DAN MCGEE**, on April 10, 2003 at 9:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dan McGee, Chairman (R)
Rep. Jeff Laszloffy, Vice-Chairman (R)
Sen. Aubyn Curtiss (R)
Sen. Gerald Pease (D)
Rep. George Everett (R)
Rep. Carol C. Juneau (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 211, 4/7/2003
Executive Action:

SEN. MCGEE explained to the Committee that as it was a Free Conference Committee they could deal with the entire bill not just the amendments. **SEN. MCGEE** stated that the reason for the meeting was that the House had rejected the Senate amendments.

REP. JUNEAU distributed two handouts to the Committee and explained the contents of Exhibit 1. The handouts are attached as Exhibits 1 and 2 respectively. **REP. JUNEAU** discussed the reasons for rejection of the Senate Amendments. **REP. JUNEAU** stated that she would like the language stricken by the Senate to be put back in the bill as indicated on Exhibit 2. She went on to say that she felt it was important that the Parole Board have a member that was supported by at least two tribal governments.

EXHIBIT (cch77hb0211a01)

EXHIBIT (cch77hb0211a02)

SEN. MCGEE asked **REP. JUNEAU** if she was comfortable with the language on Page 6, Lines 16-20. **REP. JUNEAU** replied that she did not have a problem with that language.

SEN. CURTISS expressed her concerns with the proposed amendments and stated she felt there would be problems created by having to obtain two letters from different tribal governments.

REP. LASZLOFFY asked Nancy Knight if there was currently a Native American member on the Parole Board. **Nancy Knight, Native American Liaison for the Department of Corrections**, replied that there was currently a Native American on the Auxiliary Board.

REP. EVERETT asked what 2-15-108 was. **REP. LASZLOFFY** stated that 2-15-108 related to gender balance and read the pertinent language from the Montana Codes Annotated.

SEN. MCGEE explained the reasons for the Senate taking the language out of the bill. He pointed out that what they had wanted to do was to say that every member of the Parole Board, the three regular members plus the new four auxiliary members, must have knowledge of American Indian culture and problems.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 15.4}

Valencia Lane, Legislative Services, clarified for the Committee what had taken place in the Senate Judiciary Committee. She went on to discuss George v. Montana Board of Pardons and its impact on the bill.

{Tape: 1; Side: A; Approx. Time Counter: 15.4 - 20.1}

SEN. PEASE and **Ms. Lane** further discussed the reasons for the Senate amendments to the bill. **Ms. Lane** stated that it would be good for the whole Board to have education and training regarding Native Americans.

REP. JUNEAU pointed out that the Native American prisoners were signing waivers to get around the George case. She went on to say that she was concerned about the use of those waivers. **REP. JUNEAU** proceeded to discuss further the handout on statistics.

SEN. MCGEE asked **REP. JUNEAU** if she was saying, based on the statistics, there was an inequity being exercised by the Parole Board. **REP. JUNEAU** responded that she did not know, but she found the statistics interesting.

SEN. MCGEE asked why anyone would be granted parole. **REP. JUNEAU** responded by the prisoner meeting the terms required for parole.

SEN. MCGEE asked **REP. JUNEAU** if she felt there was racial discrimination. **REP. JUNEAU** stated that she did not know, she was only presenting statistics that were interesting in terms of numbers not matching.

REP. LASZLOFFY asked **REP. JUNEAU** if it was her intent, that if there was a Native American on the Parole Board, that all Native Americans would appear before the Parole Board with that Native American Member in attendance. **REP. JUNEAU** responded that she would encourage the Parole Board to consider at least two members be Native American.

{Tape: 1; Side: A; Approx. Time Counter: 17.6 - 30.3}

REP. LASZLOFFY asked **REP. JUNEAU** if she expected the outcome of the parole hearings to be better if there was a Native American sitting on the Board. **REP. JUNEAU** replied that she did not know. She went on to say that the intent was to make sure that the Parole Board had a representative on it that could understand issues that the Indian could present.

REP. LASZLOFFY commented that he did not understand how **REP. JUNEAU'S** amendment would effect anything, as they were already there. He went on to say that there had been a Native American Parole Board Member since either 1985 or 1987. He pointed out that they were trying to become a society that was racially blind, and at the same time make allowances for the fact that there are different races within our society.

REP. EVERETT asked if the Federal Prison System had Native Americans that sat in on parole hearings. No one was aware if they did or not.

REP. NORMA BIXBY, HD 5, Lame Deer, spoke in support of **REP. JUNEAU'S** amendments. She explained the reasons and benefits of the amendments.

SEN. MCGEE, REP. BIXBY and **REP. JUNEAU** discussed the qualifications for becoming a Parole Board Member.

REP. FRANK SMITH, HD 98, Poplar, commented on agreement of the tribal governments to applicants. He stated that he stood in support of the bill with **REP. JUNEAU'S** amendments. **REP. SMITH** asked **SEN. MCGEE** how he would feel if he were sitting in front of a Parole Board made up of all Indians. **SEN. MCGEE** responded that he would not have a problem with it. He went on to say that if the Members of the Parole Board were concerned with his race they were upside down to begin with. He further expounded on his views of the subject. **REP. SMITH** and **SEN. MCGEE** continued to discuss the issue.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 14.1}

SEN. MCGEE and **REP. SMITH** discussed the problems that could arise as there are often more than one parole hearing, in different locations, on the same day.

{Tape: 1; Side: B; Approx. Time Counter: 14.1 - 17.1}

SEN. MCGEE explained the George case to the Committee. **SEN. MCGEE** recommended that they add to the bill in the appropriate place the following language: "that the membership of the Board of Pardons and Paroles shall meet the requirements of Section 2-15-108."

There was further discussion between **SEN. MCGEE** and **REP. SMITH**.

REP. SMALL-EASTMAN, HD 6, Lodge Grass, recommended that all of the members of the Parole Board have letters of recommendation from at least two tribal governments.

REP. LASZLOFFY asked if it did not give them some comfort to know that there had been a Native American on the Parole Board for at least twenty years. **REP. SMALL-EASTMAN** expressed her concerns regarding the fact that if there were two hearings the Native American Member would only be able to attend one of those hearings. She reiterated her idea that all members should be approved by at least two tribal governments.

{Tape: 1; Side: B; Approx. Time Counter: 17.1 - 28.1}

SEN. CURTISS asked if a prisoner from another minority group would have a cause of action since there would not be a member of his minority group on the Parole Board. She went on to ask what would happen if they were not able to guarantee that there would be a Native American person or someone approved by the two tribal governments on the Board at every hearing.

REP. SMALL-EASTMAN stated that she felt that if it were an Hispanic person, they would have a cause of action.

Motion: **REP. JUNEAU** moved that **AMENDMENT 211-1 TO HB 211 BE ADOPTED.**

Discussion:

REP. JUNEAU stated that the bill had been requested by the State Tribal Affairs Committee. She went on to say that the George Case was only one of the reasons that the bill had been brought forth. She then commented on the inequities based on race.

REP. EVERETT pointed out that he had not heard of any cases other than the George Case and was not sure if there was any bias.

SEN. PEASE spoke in support of the amendments. He went on to discuss the imbalance in paroles shown on the handouts.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 10.6}

REP. LASZLOFFY stated that he felt that the bill in its present form struck a good balance. He went on to say that 2-15-108 was already in practice. He concluded by saying that he would support the bill with the Senate amendments.

SEN. CURTISS indicated that she would resist the amendments. She stated that she felt that it would be difficult to get the approval from two separate tribal governments as to which individual should be on the Parole Board. She concluded that there could be a cause of action brought as all minorities were not being represented.

SEN. MCGEE expressed his respect for the Indian Nations, their culture and their nature. He talked about prejudices and dealing with the realm of the law and justice. He stated that he could not support the motion. **SEN. MCGEE** pointed out that the Parole Board was appointed by the Governor and that he or she consulted with the Nations regarding who should be appointed. He went on to say that the bill in its present form would require all seven

members to have training in tribal culture. He concluded by saying he would oppose the amendments.

REP. JUNEAU stated that it was an issue she felt needed to be addressed. She went on to say that they were setting policy that did not meet the needs of the Native Americans.

Vote: Motion that **AMENDMENT 211.1 BE ADOPTED** failed 2-4 by roll call vote with **SEN. PEASE** and **REP. JUNEAU** voting aye.

{Tape: 2; Side: A; Approx. Time Counter: 10.6 - 24.2}

The Committee discussed a conceptual amendment to the bill and where it would be added to the bill.

SEN. MCGEE suggested that they create a new Section 5. The suggested language of the amendment would read: "The Parole Board shall report to the Law and Justice Interim Committee on the disposition and reasons for approval or denial of parole applications by Native Americans."

{Tape: 2; Side: A; Approx. Time Counter: 24.2 - 28}

{Tape: 2; Side: B; Approx. Time Counter: 0 - 1.4}

SEN. PEASE, REP. JUNEAU, SEN. MCGEE and **Ms. Lane** further discussed the language of the proposed conceptual amendment and where it would be located in the bill.

Motion: **SEN. MCGEE** moved that the **CONCEPTUAL AMENDMENT TO HB 211 BE ADOPTED**.

Discussion:

SEN. CURTISS stated that she approved of the amendment and asked if it could be compared to the statistics by other applicants.

SEN. MCGEE replied that the Law and Justice Committee would decide the exact format. He went on to say that he wanted to leave the language broad. He continued that he felt the information should not only go to the Law and Justice Committee but also to the State Tribal Relations Committee.

Motion/Vote: Motion that the **CONCEPTUAL AMENDMENT TO HB 211 BE ADOPTED** carried 6-0 by voice vote.

Motion/Vote: **SEN. PEASE** moved that the **FREE CONFERENCE COMMITTEE REPORT BE ADOPTED**. Motion carried 5-1 by voice vote with **REP. JUNEAU** voting no.

{Tape: 2; Side: B; Approx. Time Counter: 6.3 - 10.4}

ADJOURNMENT

Adjournment: 10:28 A.M.

SEN. DAN MCGEE, Chairman

MARI PREWETT, Secretary

DM/MP

EXHIBIT (cch77hb0211aad)